DOCUMENT RESUME

ED 309 851 PS 018 173

TITLE Regulation and Provision of Child Day Care in Virginia: Staff Briefing.
INSTITUTION Joint Legislative Audit and Review Commission, Richmond, VA.
PUB DATE 10 Jul 89
NOTE 104p.
PUB TYPE Reports - Research/Technical (143)

EDRS PRICE MF01/PC05 Plus Postage.
DESCRIPTORS *Day Care; Early Childhood Education; Educational Quality; *Government Role; *State Programs; State Surveys
IDENTIFIERS *State Regulation; *Virginia

ABSTRACT

A mandated study was made of Virginia's roles in child day care regulation and the promotion of high quality care. The primary objectives of the study were to: (1) examine the state's goals in regulating child day care and determine whether changes to the regulatory system were needed to meet those goals; and (2) review the state's role in promoting availablity and quality of care to determine whether additional state initiatives should be considered. Surveyed were 1,820 households, 226 child care centers, 331 children's programs, 310 regulated child day care providers, 53 unregulated family day care homes, 31 licensing specialists, 7 licensing administrators, 13 consumer associations, 84 provider associations, and 15 other states. In addition, research staff visited 73 programs to ascertain the types of child care available and evaluate differences in the types and quality of care. Findings are discussed in terms of child care in Virginia, regulation of child day care in the state, redefinition of the state's regulatory role, reconsideration of the regulatory system, state initiatives for promotion of child care in Virginia, and recommendations. (RH)

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Joint Legislative Audit and Review Commission

Regulation and Provision of Child Day Care in Virginia

Staff Briefing

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July 10, 1989

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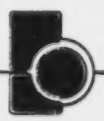
REGULATION AND PROVISION OF CHILD DAY CARE IN VIRGINIA

- [x] **INTRODUCTION**
  - **Study Mandate**
  - **JLARC Review**
- [ ] **CHILD CARE IN VIRGINIA**
- [ ] **REGULATION OF CHILD DAY CARE IN VIRGINIA**
- [ ] **REDEFINING THE STATE'S REGULATORY ROLE**
- [ ] **RECONSIDERING THE REGULATORY SYSTEM**
- [ ] **STATE INITIATIVES TO PROMOTE CHILD DAY CARE IN VIRGINIA**
- [ ] **RECOMMENDATIONS**



STUDY MANDATE

- **SJR 41 and HJR 116 (1988) requested a study of child day care regulation and provision**
- **The study mandate requested an examination of:**
  - **opinions of parents, providers, and associations regarding regulation**
  - **the appropriateness of exemptions and exceptions**
  - **the definition and regulation of family day care**
  - **the funding needed to regulate if the number of exemptions and exceptions is reduced**
  - **initiatives that would improve availability and promote quality care**
  - **training of child day care providers**
  - **the type of system that would equalize the impact of regulation on all types of child care — public, private, or proprietary**

JLARC REVIEW

- **The study mandate addresses the State's two roles regarding child day care: regulation and promotion of quality care**

- **The primary objectives of the study were twofold:**

  - **To examine the State's goals in regulating child day care and determine whether changes to the current regulatory system are needed to meet those goals**

  - **To review the State's role in promoting availability and quality of care to determine whether additional State initiatives should be considered**

Research Activities

- **Comprehensive, reliable information about child day care in Virginia was not available**
- **JLARC staff collected this information through ten surveys and 73 field visits**

Statewide Survey of Parents

- Conducted jointly by JLARC staff and the Virginia Commonwealth University (VCU) Survey Research Laboratory during November and December 1988

- Collected information from Virginia parents about child day care

- Surveyed families were representative of Virginia families:

	State		Survey	
- Race:	White	79%	White	81%
	Black	19%	Black	16%
- Income:	State		Survey	
	Above $35,000	50%	Above $35,000	50%
	Below $35,000	50%	Below $35,000	50%

- 2,371 households were randomly selected with 1,820 households (77 percent) responding to the survey

- 552 households had children under 13 years of age living in the household — 205 had at least one child in day care

- Questions related to types of care used, number of children in care, satisfaction with care, day care regulation, and initiatives the State could take concerning day care

Surveys of Child Care Providers

- **Four surveys designed to reach the different types of child care providers identified by JLARC staff:**

  - child care centers
  - children's programs
  - regulated family day care homes
  - unregulated family day care homes

- **Survey of child care centers sent to 369 centers, with 226 programs responding (61%), of which 58 were church-sponsored**

- **Survey of children's programs sent to 590 programs including nursery schools, recreation and parks programs, Boys and Girls Clubs, and public school-sponsored before- and after- school programs; 331 programs responded (56%)**

- **Survey of regulated child day care providers sent to 763 family day care home providers regulated by a State or federal agency, a local department of social services, or a family day care system; 310 providers responded (41%)**

- **Survey of unregulated family day care homes was a telephone survey of 53 providers conducted jointly by JLARC staff and the VCU Survey Research Laboratory**

- **Questions on all four surveys were used to collect information about the number of children in care, the cost of care, the number of hours care was provided, current problems in providing day care, and opinions concerning State regulation of day care**

Surveys of Regulatory Staff

- **Included all Department of Social Services (DSS) regulatory staff involved in the licensing of child care centers, family day care homes, and family day care systems:**

  - 31 licensing specialists (by mail)
  - 7 regional licensing administrators (by telephone)

- **Questions focused on licensing activities, experiences with licensing standards and enforcement, caseload, training, and opinions concerning State regulation**

Survey of Associations

- **13 consumer associations and 84 provider associations were surveyed**
- **Included such diverse groups as the Boy Scouts, U.S. Department of Agriculture (USDA) sponsor associations, the Virginia Municipal League, the League of Women Voters, and the military services**
- **63 associations responded (65%)**
- **Associations were asked about services they provided to parents and day care providers and their positions on child care and its regulation**

Survey of Other States

- **15 states were surveyed by JLARC staff by telephone**
- **Collected information about definitions of day care, regulatory goals, regulatory forms used, and recent initiatives to improve the availability and quality of services**

Field Visits

- **JLARC staff visited 73 programs to ascertain the types of child care available and to evaluate differences in the types and quality of care**

- **Programs visited included child care centers, family day care homes, occasional care programs, school programs, church-sponsored centers, Boys and Girls Clubs, nursery schools, summer camps, hospital-sponsored and other employer-sponsored programs, and recreation and parks programs**

- **JLARC staff used a checklist to evaluate basic health and safety aspects of programs such as facility surroundings, indoor safeguards, supervision and discipline, fire safety, hygiene, food preparation, rest and sleep, infant and toddler feeding, special age considerations, vehicle use, animals and pets, and water sports and other outdoor program activities**

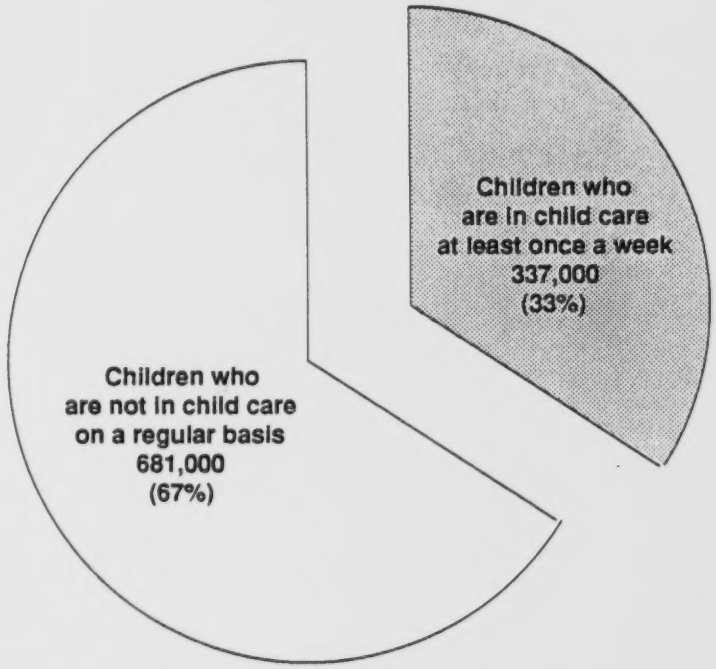
- **JLARC staff also observed State licensing procedures and investigations**

REGULATION AND PROVISION OF CHILD DAY CARE IN VIRGINIA

- ☐ **INTRODUCTION**
- ☑ **CHILD CARE IN VIRGINIA**
  - **Use of Child Care**
  - **Characteristics of Child Care Providers**
  - **Availability of Care**
  - **Parental Satisfaction with Quality of Child Care**
- ☐ **REGULATION OF CHILD DAY CARE IN VIRGINIA**
- ☐ **REDEFINING THE STATE'S REGULATORY ROLE**
- ☐ **RECONSIDERING THE REGULATORY SYSTEM**
- ☐ **STATE INITIATIVES TO PROMOTE CHILD DAY CARE IN VIRGINIA**
- ☐ **RECOMMENDATIONS**

USE OF CHILD CARE

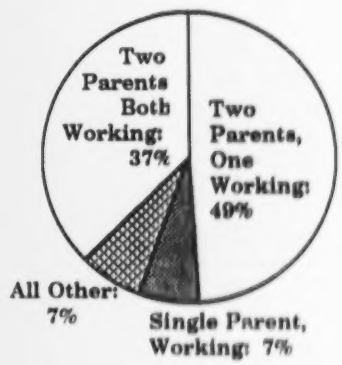
Estimated Number of Children under 13 in Child Care in Virginia

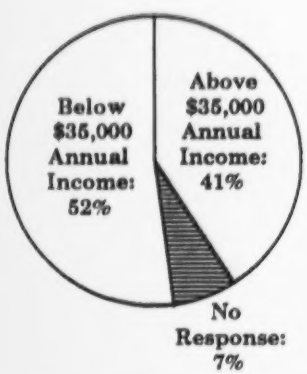

Children who are in child care at least once a week 337,000 (33%)
Children who are not in child care on a regular basis 681,000 (67%)

Source: JLARC/VCU survey of parents and U.S. Bureau of the Census population estimates.

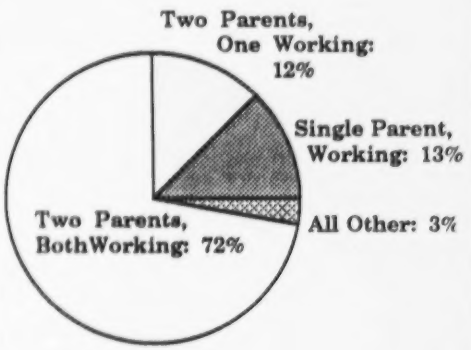
Comparison of Virginia Family Characteristics

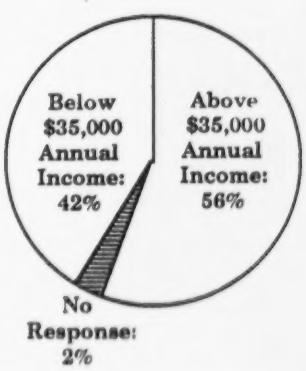
Families with Children under 13 Not Using Child Care (N=347)





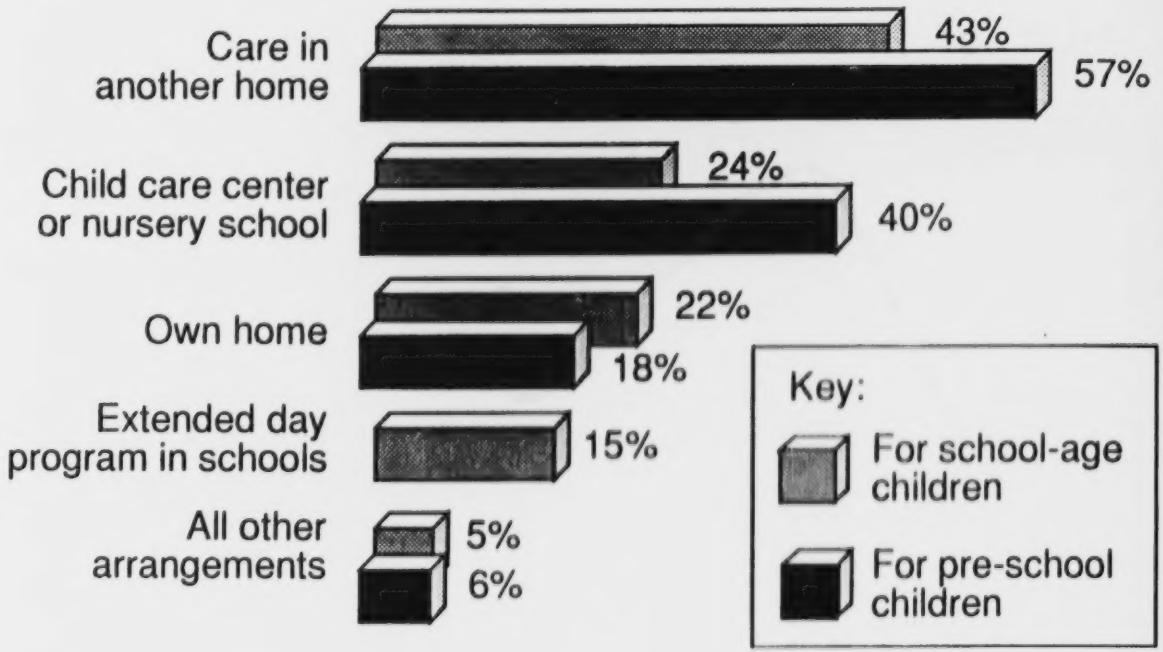
Families with Children under 13 Using Child Care (N=205)





Source: JLARC/VCU survey of parents.

Child Care Arrangements Used by Virginia Families



Source: JLARC/VCU survey of parents.

CHARACTERISTICS OF CHILD CARE PROVIDERS

- **Child care providers and programs can be distinguished by:**

  - **basic provider characteristics**
  - **provider and staff qualifications**
  - **charges for care**
  - **flexibility of scheduling care**

Basic Provider Characteristics

Type of Provider	Characteristics
Child care center	• group care to a large number of children (69 children on average) • children 2 weeks to 18 years • variety of locations
Other children's programs	• group care to a large number of children (142 children on average) • children 2 weeks to 18 years • variety of locations
Family day care home	• home environment for a small number of children (5 children on average) • children from birth to 14 years • private homes
In-home providers	• own home for children of one family • children from birth to 18 years

Provider and Staff Qualifications

- **Number of staff, staff-to-child ratios, and the qualifications and training of staff varied by type of provider**

Average Staff-to-Child Ratios By Type of Provider

Type of Provider	Number of Staff	Number of Children	Staff-to-Child Ratio
Child care centers	9.0	68.8	1:7.6
Other children's programs	12.5	142.0	1:11.4
Family day care homes			
Regulated	1.5	5.7	1:3.8
Unregulated	1.2	4.1	1:3.4

Source: JLARC and VCU surveys of providers.

Required Staff Qualifications

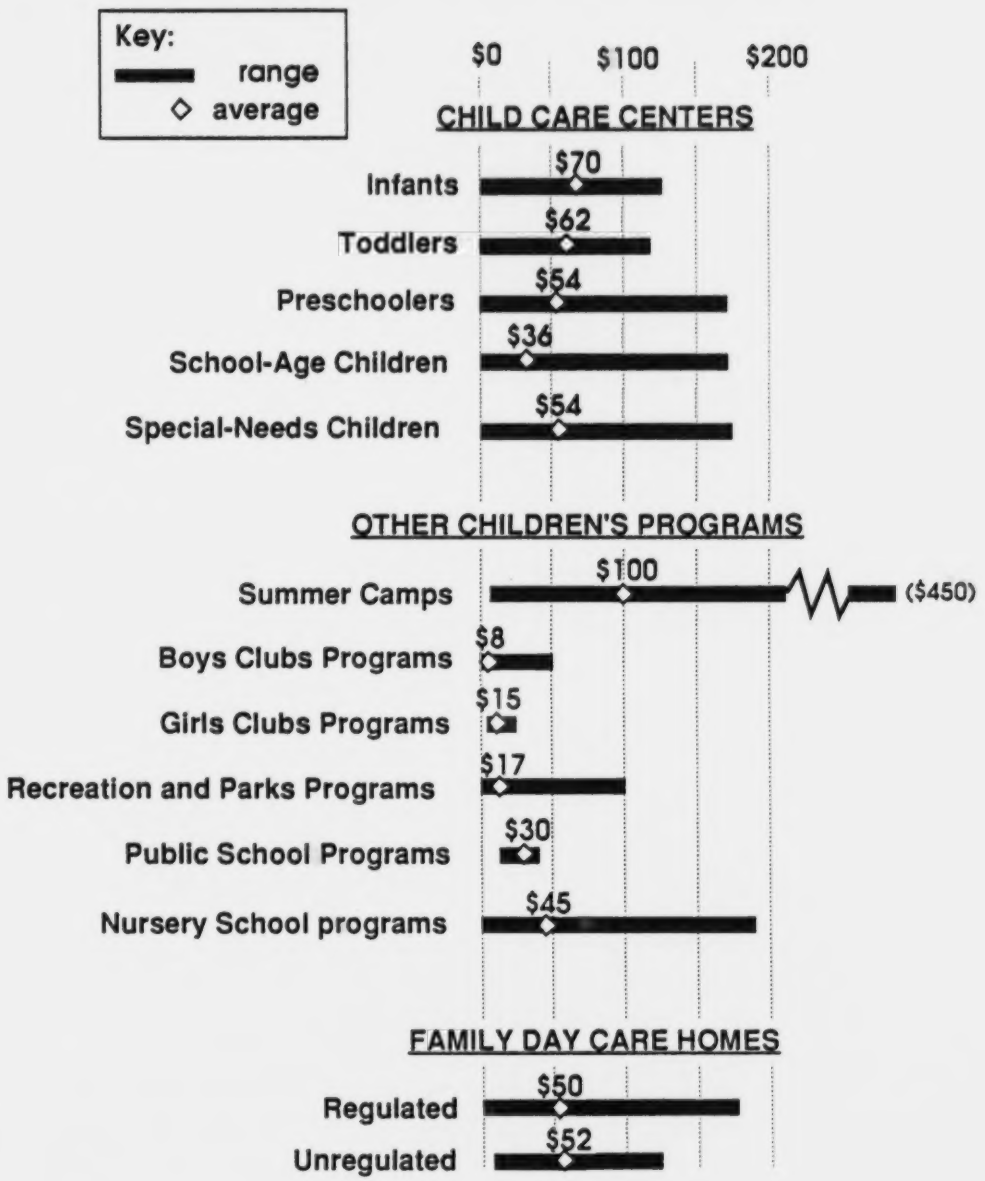
- **Child care centers have, on average, more requirements for staff than other children's programs:**

Qualification for Staff	Percentage With Requirement: Child Care Centers	Percentage With Requirement: Other Children's Programs
Criminal records check	90%	39%
Tuberculosis test	96%	50%
Specific education level	81%	71%
Previous experience	70%	60%
Be of minimum age	79%	67%
Completion of child-care-specific training	59%	50%

Source: JLARC staff surveys of providers.

- **Family day care providers are typically self-employed so there are no required qualifications except those of parents**
- **Qualifications for in-home providers are specified by parents and occasionally by the agency which places the provider**

Weekly Fees Charged by Various Providers



Source: JLARC and VCU surveys of providers.

Flexibility in Hours Care Was Available

	Percentage Offering Care			
Type of Provider	Morning	Afternoon	Evening	Overnight
Child care centers	94%	96%	19%	<1%
Other children's programs	86%	77%	28%	17%
Family day care homes				
Regulated	95%	91%	53%	12%
Unregulated	91%	98%	23%	2%

Source: JLARC and VCU surveys of providers.

AVAILABILITY OF CARE

- **There does not appear to be a general, statewide shortage of child day care services in Virginia**
- **However, 40 percent of parents with children in care reported having problems finding care at one time or another**
- **In 11 percent of households with children not in care, someone in the household was currently unable to work because they had problems getting care for their children**
- **Comparing responses from families in rural and urban areas: 46 percent of rural-dwelling families reported availability problems, compared to 33 percent of urban-dwelling families**

Concentrations of Licensed Child Day Care in Virginia

Key:

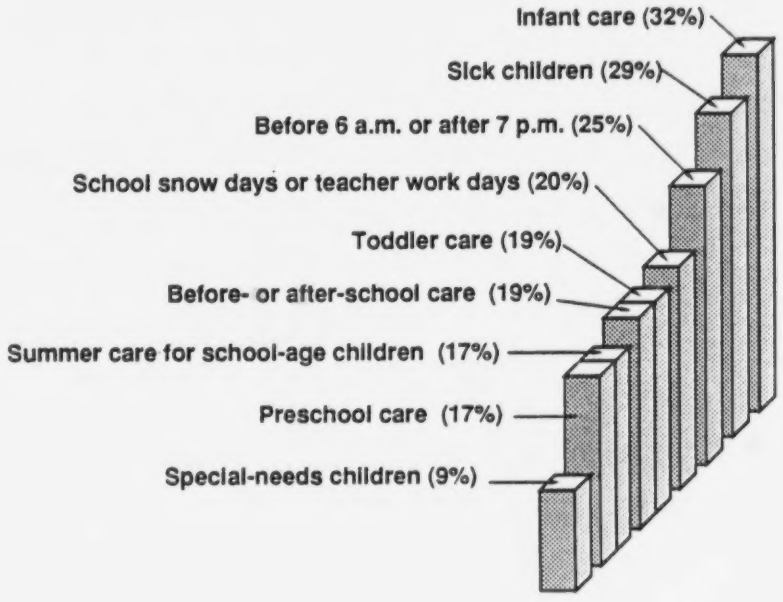
Localities with no licensed day care

Localities with high concentrations of licensed day care

Three urban areas have 62% of the State's licensed child day care capacity: Northern Virginia (20%), Richmond (19%), and Hampton Roads (23%). These metropolitan areas have 46% of children under 13.

Source: JLARC staff analysis of DSS licensing data and U.S. Bureau of the Census population estimates.

Percent of Responding Families Reporting Child Care as Difficult to Find, By Type of Care


Infant care (32%)
Sick children (29%)
Before 6 a.m. or after 7 p.m. (25%)
School snow days or teacher work days (20%)
Toddler care (19%)
Before- or after-school care (19%)
Summer care for school-age children (17%)
Preschool care (17%)
Special-needs children (9%)

Source: JLARC/VCU survey of parents.

PARENTAL SATISFACTION WITH QUALITY OF CHILD CARE

- **Parents with children in day care are satisfied with their current arrangement, but have experienced problems in the past:**

  - **96 percent of parents reported being satisfied with the quality of care their children currently receive**

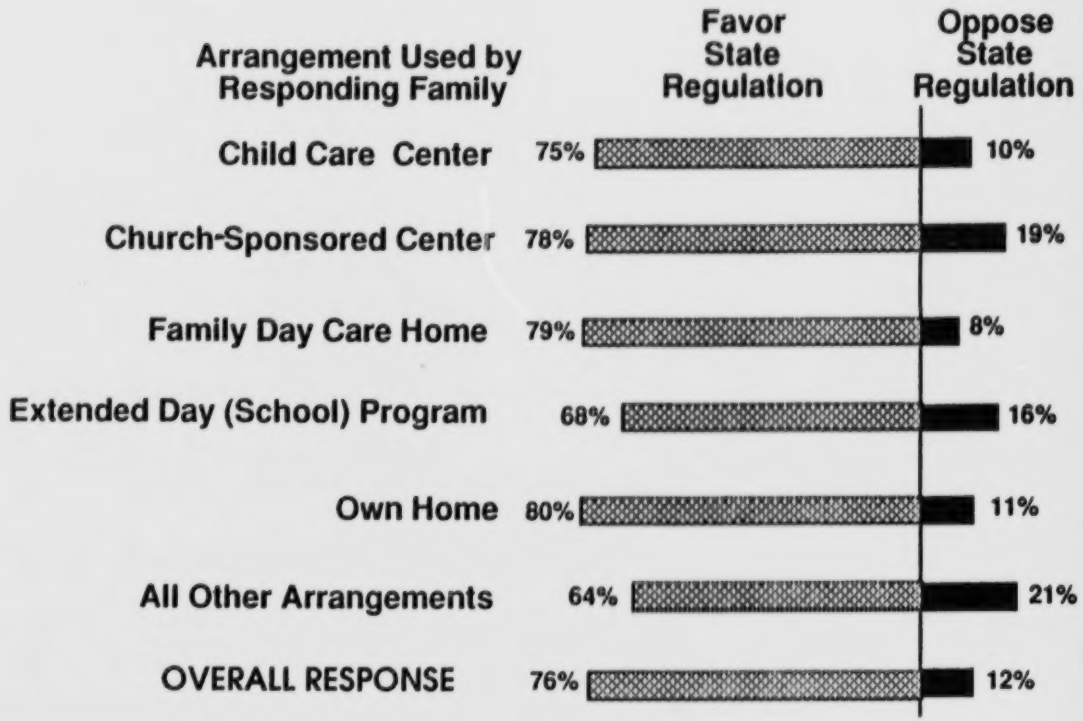
  - **36 percent of parents reported having difficulty finding care because the quality of care was not as good as they wanted it to be**

  - **Approximately 27 percent of parents reported that they had changed their child care arrangement in the past because of dissatisfaction with quality (within the past two years, no respondents reported changing their arrangements because of problems)**

  - **13 percent changed their care arrangement because it was not affordable**

- **Despite general satisfaction with quality, more than 76 percent of parents supported State regulation of child day care providers**

Family Opinions about Regulation of Child Day Care



Source: JLARC/VCU survey of parents.

REGULATION AND PROVISION OF CHILD DAY CARE IN VIRGINIA

- ☐ **INTRODUCTION**
- ☐ **CHILD CARE IN VIRGINIA**
- ☑ **REGULATION OF CHILD DAY CARE IN VIRGINIA**
  - **Overview of the State's Regulatory System**
  - **Assessing the Consequences of the Regulatory System**
  - **Conclusion**
- ☐ **REDEFINING THE STATE'S REGULATORY ROLE**
- ☐ **RECONSIDERING THE REGULATORY SYSTEM**
- ☐ **STATE INITIATIVES TO PROMOTE CHILD DAY CARE IN VIRGINIA**
- ☐ **RECOMMENDATIONS**

OVERVIEW OF THE STATE'S REGULATORY SYSTEM

- **The State has regulated child day care in some form for more than 65 years**

- **The State regulates child day care through mandatory licensure of day care facilities, although some child care centers excepted or exempted from licensure are regulated through certification or an exemption process**

- **In all, the State licenses or certifies 1,286 facilities with a capacity of 83,580 children**

- **Licensing is required for two types of statutorily defined providers:**

  - child care centers
  - family day care homes

Child Care Centers

- **The *Code of Virginia* defines child care centers as facilities that provide care, protection, and guidance to a group of children separated from their parents or guardian during a part of the day**

- **Exceptions to regulation of centers as specified in statute:**

  - facilities licensed as summer camps

  - centers in public and private schools (unless the private school center operates outside of regular classes)

  - educational programs for preschool children meeting certain age and hour limitations

  - hospitals operating centers for their employees

  - Sunday schools and other facilities operated by religious institutions so that parents may attend services, and

  - centers sponsored by government entities

- **DSS licensing standards specify that a private home in which group care is provided to ten or more children separated from their parents or guardians is a child care center**

Family Day Care Homes

- **The *Code of Virginia* defines family day care homes as private homes where a provider cares during a part of the day for six or more children unrelated to the provider**

- **Licensing standards require that no more than nine children who are unrelated to the provider be cared for on a regular basis within these family day care homes**

- **Exceptions to regulation of homes as specified in statute:**

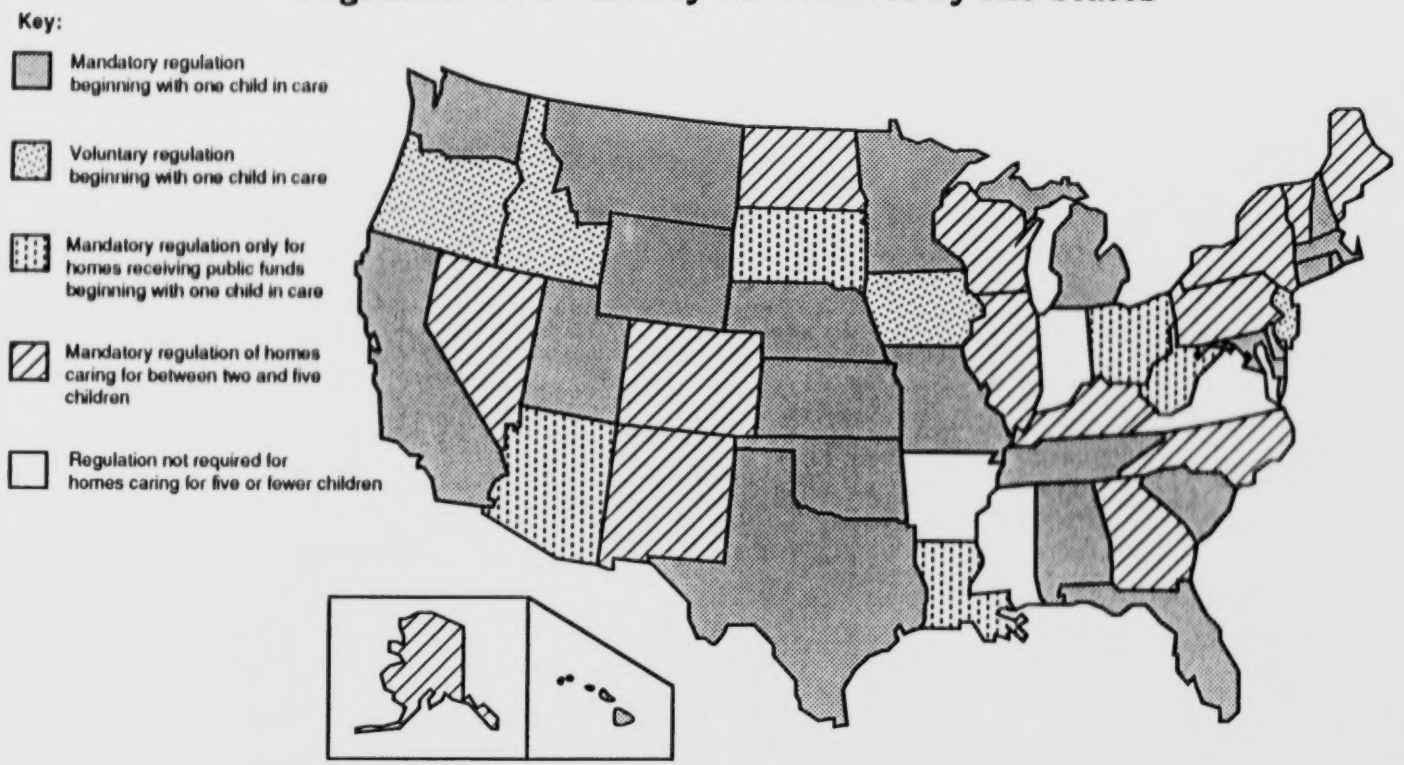
  - **homes accepting children exclusively from local departments of social services**

  - **homes approved by licensed family day care systems**

  - **homes with ten unrelated children if five of the children are school-age and are cared for before and after school for periods of three hours or less**

- **Virginia is one of four states which do not define homes that care for five or fewer children as child day care for regulatory purposes**

Regulation of Small Day Care Homes by the States


Key:
Mandatory regulation beginning with one child in care
Voluntary regulation beginning with one child in care
Mandatory regulation only for homes receiving public funds beginning with one child in care
Mandatory regulation of homes caring for between two and five children
Regulation not required for homes caring for five or fewer children

Source: JLARC staff analysis of The Children's Foundation report, 1988 Family Day Care Licensing Study .

Establishment of Standards

- **The State Board of Social Services establishes licensing standards for family day care homes and family day care systems**

- **In 1987, the General Assembly created the Child Day-Care Council to establish standards for child care centers only**

Administrative Responsibilities for Licensing

- **It is the responsibility of the Department of Social Services to license child day care providers and monitor compliance with standards**

Requirements for Centers

- **DSS regulatory staff inspect centers at least two times each year — one inspection must be unannounced**

- **Licensure of centers also requires certain inspections by other State and local agencies:**

  - local health department
  - State or local fire marshals

- **Government-sponsored centers voluntarily certified to receive public funds are subject to the same requirements as State-licensed centers**

- **In March of 1989, there were 978 licensed centers and 15 certified centers**

Requirements for Homes

- **DSS regulatory staff inspect homes at least two times a year — one inspection is unannounced**
- **Homes are not typically subject to other inspections such as fire safety or health**
- **293 homes with a capacity of 2,486 children were licensed by the State in March of 1989**

Requirements for Family Day Care Systems

- **Family day care systems were first defined and authorized by the General Assembly to approve family day care homes in 1979**
- **Systems can approve homes that meet the State's definition of a family day care home or those that care for five or fewer children**
- **Systems promulgate their own approval standards for the homes they monitor in addition to the general standards for family day care homes**
- **Systems are inspected by DSS two times a year with one visit unannounced**
- **There were four family day care systems licensed by the State in March of 1989**

Requirements for Religiously-Sponsored Centers Applying for Exemption from Licensure

- **Under Section 63.1-196.3 of the *Code of Virginia*, religiously-sponsored centers must either apply for an exemption to licensure or complete the licensing process**

- **The exemption process includes completion of health and fire safety inspections, self-certification of staff health and staff-to-child ratios, a statement of tax-exempt status, and documentation of public notice of their exempt status**

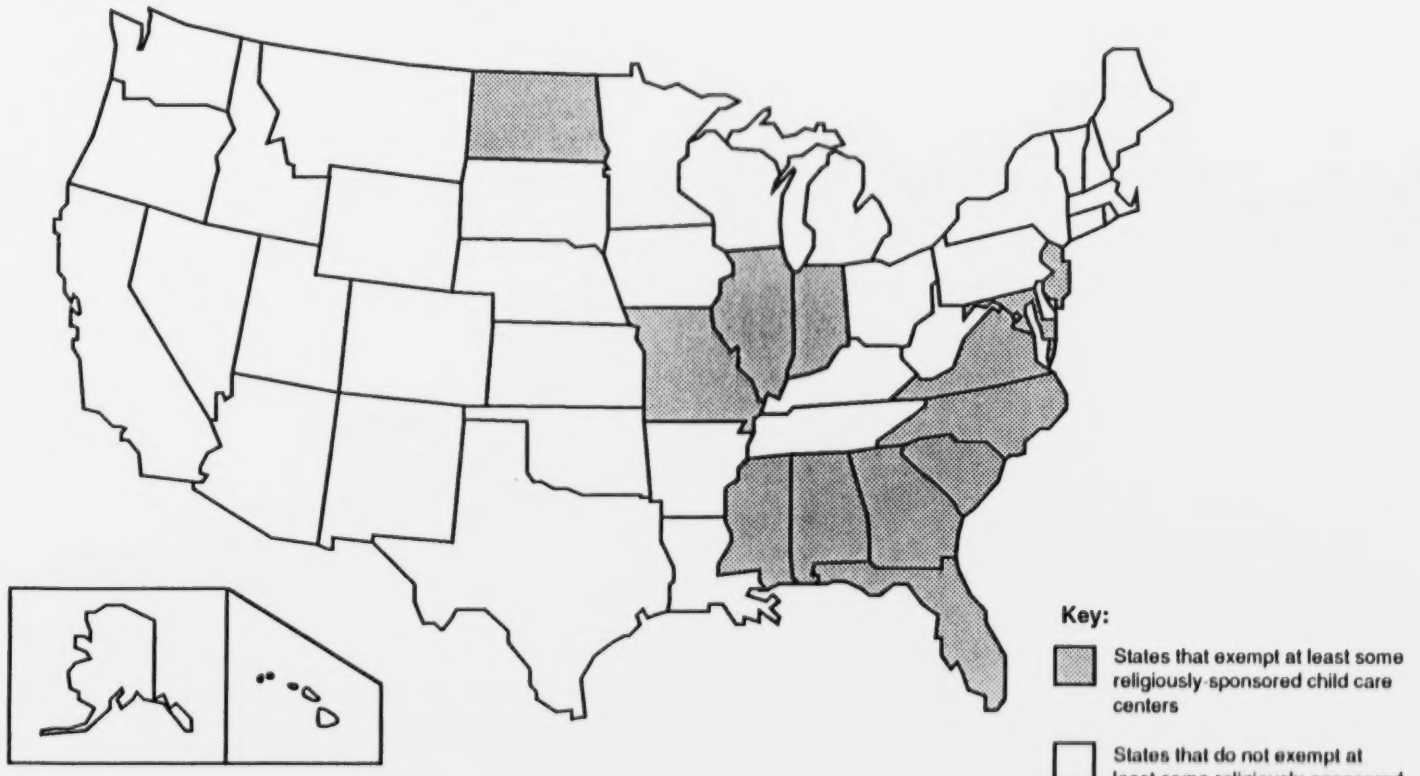
- **Exempt centers are not subject to inspections or monitoring by DSS licensing staff**

- **There were 167 religiously-sponsored exempt centers with a capacity of 12,302 children in care in April of 1989**

- **An additional 133 religiously-sponsored centers have chosen to be licensed**

JLARC Staff Briefing
July 10, 1989

States That Exempt Religiously-Sponsored Child Care Centers


Key:
States that exempt at least some religiously-sponsored child care centers
States that do not exempt at least some religiously-sponsored child care centers

Source: JLARC staff analysis of The National State of Child Care Regulation 1986, Table 1B.

Comparison of Exemption Requirements for Religiously-Sponsored Child Care Centers in Selected States

State	Health Inspection	Fire Inspection	Meet Some Licensing Standards	Criminal Records Check	Inspection by Regulatory Staff Before Exemption Granted
Georgia	Yes	Yes	Yes	Yes	Yes
Indiana	Yes	Yes	Yes		
New Jersey	Yes	Yes	Yes		
North Carolina	Yes	Yes	Yes	Yes	Yes
Virginia	Yes	Yes			

Source: JLARC staff analysis of *Code of Virginia* and other states' laws and licensing standards.

Legal Status of the Exemption

- **The courts have determined that granting an exemption to religiously-sponsored day care facilities is constitutional**

- **Federal courts and courts in other states have not found an exemption for religiously-sponsored child care centers to be constitutionally required**

- **In an informal opinion dated May 16, 1989, the Office of the Attorney General advised that the State is not required to exempt church-run centers from licensure**

ASSESSING THE CONSEQUENCES OF THE REGULATORY SYSTEM

- **The State regulatory framework could be an important means of protecting children when they are not in care of their parents**

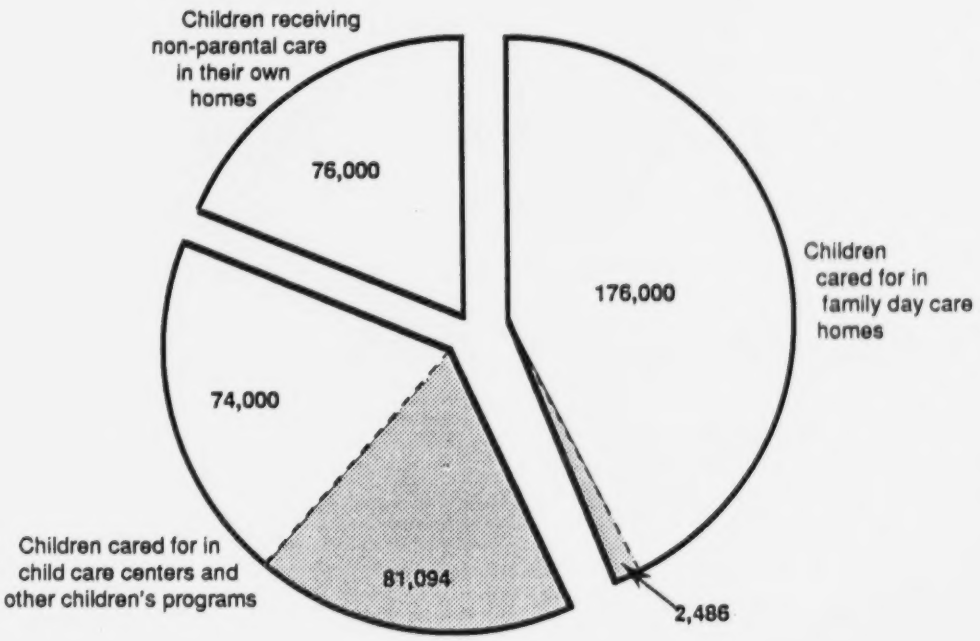
- **Virginia's regulatory system does not uniformly protect children because regulatory policy is neither clear nor comprehensive**

- **Because there is no clear goal for the regulatory system:**

  - **Scope of regulation is narrow and inconsistent**
  - **System is inflexible**
  - **Standards may be unreasonable and unenforceable for some providers**

The Scope of Regulation is Narrow

Estimated Number of Children Currently in State-Regulated Child Day Care
1989


Children receiving non-parental care in their own homes
76,000
176,000
Children cared for in family day care homes
74,000
Children cared for in child care centers and other children's programs
81,094
2,486

Key:

- ☐ Child day care ***not currently regulated*** by the State.[1]
- ▨ Child day care ***currently regulated*** by the State.[2]

[1] JLARC staff estimates.

[2] Actual DSS capacity figures.

Source: JLARC/VCU survey of parents, U.S. Bureau of the Census population estimates, and JLARC staff analysis of DSS licensing data.

The Number of Exclusions from Regulation Has Increased

- **While the types of providers of day care have grown, the State's definition of child day care has not expanded to encompass them**

- **Some recognized providers have been excluded from regulation while other providers are not regulated because they have not been recognized as traditional day care**

- **Exclusions for centers include:**

  - **Government-sponsored care was excluded, and summer camps, and part-time nursery schools were excepted from licensure in 1968**

  - **Hospital-sponsored centers were excepted from licensure in 1975**

  - **Religiously-sponsored centers were given the option of applying for exemption in 1979**

- **Exclusions for homes include:**

  - **Homes caring for fewer than four unrelated children were excluded from licensure in 1972**

  - **Homes caring for fewer than six unrelated children were excluded from licensure in 1977**

  - **Homes caring for fewer than 11 unrelated children (if five of the children are in before- and after-school care) were excluded from licensure in 1987**

Care in Excepted and Exempt Centers

- **Care in excepted and exempt centers appears often to be comparable to care in regulated centers**
  - **Two exempt centers, for example, are accredited by the National Association for the Education of Young Children**
  - **In JLARC staff visits, good quality care was observed in some excepted and exempt centers**
- **However, problems can occur in any type of care and there is little the State can do to address problems in excepted or exempt centers**

Problems With Granting Exceptions

- **Current exceptions to regulation do not permit the State to monitor the majority of providers offering care, or to prohibit them from operating when necessary:**

  In 1986, a child drowned while in the care of an illegally operating family day care provider. A 16-month old child toddled from an unlocked door to the provider's pool. The local department of social services found the operator guilty of child neglect and brought the home to the attention of DSS. However, the provider was able to continue operating because the number of children in care dropped from six to five, and the provider was no longer subject to State regulation.

  * * *

  A family day care system denied a license to a home provider in 1988 after learning that the Child Protective Services Central Registry had three "founded" complaints against her for child abuse. However, this provider is now legally caring for fewer than six children.

  * * *

  JLARC staff accompanied a U.S. Department of Agriculture inspector on field visits to monitored homes. During one of the visits, the actions of a toddler alerted staff to two separate safety problems. First, the toddler was playing with a bottle of bleach. Second, the toddler attempted to touch a wood stove while in use. The provider grabbed the child's hand before he could touch the hot stove.

- **The exceptions to regulation do not protect the children in care:**

  In one recently publicized case, an unregulated family day care provider was found guilty of neglect after an infant died while in her care. The provider had regularly drugged the infant to keep her quiet. One dose proved fatal. The provider had a criminal record in Virginia for neglecting her own children.

- **The exceptions to regulation do not allow providers to be treated equally by the regulatory system:**

  A public school extended day program operated by the school board does not have to be licensed. If a private school operated the same program, it would have to be licensed by the State.

  * * *

  Employer-sponsored care in a hospital that is available only to employees does not have to be licensed. A program sponsored by a hospital must be licensed by the State, however, if care is available to both employees and the general public.

Problems with the Exemption Process

- **The exemption process creates an illusion of protection by the State when, in fact, little protection really exists**
- **Some religious organizations have not complied with either the exemption process or licensing requirements of Section 63.1-196.3 of the *Code of Virginia***
- **DSS must grant centers exempt status if they comply with the requirements for exemption, even when there are known problems at a given center**
- **DSS has no authority to inspect these exempt centers**
- **JLARC staff noted a number of incidents in which the department's inability to investigate exempt centers has placed children in care at risk:**

> ***One religiously-sponsored child care center has been operating without a DSS-approved exemption since 1980. The minister of the church has contested the intrusion of even the exemption process on the basis of separation of church and state, and the center refuses to comply with the exemption requirements.***
>
> ***In 1981 and 1985, the Attorney General's Office was advised of problems with this center. The center continues to operate, however. The center has 50 infants in care, but there is no direct access to the outside and no sprinkler system (at least one of these two requirements must be met when infants are in care).***
>
> ***The center did not pass a January 1989 health inspection for food service. According to the local building inspector, the center "has never had a certificate of occupancy." The building inspector has indicated that this center is unsafe and unhealthy, and should be closed. However, because there are problems with availability of care in the area no action has been taken.***

* * *

In 1981, a licensed child care center, operated by a secular organization, altered its corporate structure — for the apparent purpose of avoiding licensure requirements. The Department of Social Services had concerns about the legitimacy of the center's claim for exemption. However, since the organization in question had been granted tax-exempt status, the center was able to qualify as religiously-sponsored.

At the time this center began the exemption process, a child abuse complaint against the director was being investigated by local child protective services authorities. However, DSS had no authority to investigate since a letter of intent to complete the exemption process had already been submitted.

The department has been informed of subsequent child abuse and neglect complaints, including sexual abuse, against this center at the rate of one or more each year. Other complaints about this center have alleged problems with staff-to-child ratios, fire safety, sanitation, and nutrition.

The only allegation in violation of the exemption requirements is that the staff-to-child ratios have been inadequate. While local fire and health departments could investigate the other complaints, jurisdictional disputes and contentions that the violations were not serious enough kept these departments from investigating.

DSS has no authority or justification to take action on this case because this facility has been timely in completing all the requirements for exemption. This center is still in operation.

Exclusion of Related Children in Family Day Care Homes

- **Related children are not always included when determining the number of children in care and subjectivity to licensure**
- **Children who are related to the provider are not currently counted when determining subjectivity to licensure as a family day care home**
- **Related children (other than the provider's own children) are counted when determining whether a home should be licensed as a child care center**
- **This inconsistency in how related children are counted is confusing for licensing specialists and providers**
- **It also means that some children are not being adequately protected, if at all**

Exclusion of Other Possible Providers of Day Care

- **Day care services can no longer be classified solely in terms of home or center care**

- **For example:**

  - **A program sponsored by a private, non-profit organization may provide activities for low-income children during the day at little or no charge. Because the program has not traditionally been considered a child care center, it would not currently be evaluated to determine if it should be subject to licensure.**

  - **In Virginia, nursery schools are specifically excepted from the definition of a child care center even though they are generally considered a form of day care by other states.**

Greater Flexibility is Needed

Licensing Standards May Be Too Inflexible for Some Types of Care

- **The same licensing standards are applied to all child care centers even though many special population centers are currently operating**

- **Occasional care centers and before- and after-school programs are most affected:**

  - **All 11 day care programs that classified themselves as occasional care on the JLARC staff survey of providers cited meeting State regulatory standards as a problem**

  - **One reason licensing standards are burdensome for before- and after-school programs is that the standards are specifically written for facilities caring for preschool children**

Requests for Voluntary Licensure Have Been Denied

- **DSS will not license family day care providers that do not care for the number of children specified by law, even when these providers request licensure**

- **Local, State, and federal government agencies which operate child care centers for their employees have also been unable to become State-licensed although DSS will generally certify these centers as licensed if they wish to receive public funds**

Local Governments Have No Authority to Regulate

- **To fill in the gaps in State regulation, some local agencies have begun to regulate day care providers**

- **Local regulation includes:**

  - **By authority of the State Board of Social Services, local departments of social services regulate 281 in-home providers and 1,863 family day care homes not regulated by the State**

  - **At least two local governments — Alexandria and Arlington — regulate family day care homes**

- **In an informal opinion dated May 16, 1989, the Attorney General stated that the regulation of child day care by local governments is without authority. The opinion holds that:**

> ***I can find no express legislative grant of authority for either counties or cities to enact child day care ordinances. A general grant of authority, such as that provided in §15.1-510 which authorizes a county to adopt such measures as it may deem expedient to secure and promote the health, safety and general welfare of its inhabitants, is not sufficient to authorize a county to enact an ordinance paralleling state statute. See 1976-1977 Report of the Attorney General at 208.***
>
> ***Additionally, it appears clear from the comprehensive language used in Chapter 10 of Title 63.1 and the statewide licensure system that was chosen, that the state, by such statutes, has occupied the entire field of regulating child day care, and, thus, localities are preempted as to matters comprehended by such statutes.***

Reasonableness and Enforceability of Standards

Concerns about licensing standards for child care facilities have been expressed by both:

- **DSS regulatory staff**
- **licensed providers**

Regulatory Staff Concerns About Standards

- **The majority of DSS regulatory staff consider licensing standards for centers difficult to enforce and unreasonable or unnecessary**
- **A majority of regulatory staff also consider some licensing standards for homes difficult to enforce:**

DSS Regulatory Staff Noting Problems With Standards

	Licensing Administrators	Licensing Specialists
Child Care Centers		
Standards difficult to enforce	86%	58%
Standards unreasonable or unnecessary	100%	55%
Family Day Care Homes		
Standards difficult to enforce	86%	68%
Standards unreasonable or unnecessary	29%	26%

Source: JLARC staff surveys of DSS regulatory staff.

- **About one-half of the licensing specialists said they do not receive clear explanations of new or modified standards**
- **One example of questionable standards cited by licensing specialists was the requirement that centers to be licensed submit budget and balance sheets**

Providers' Concerns About Standards

- **One-third of licensed child care centers surveyed reported problems with the standards**

Examples of Center Directors' Concerns About Licensing Standards

We believe in regulation, but we find that the excessive cost and time spent in meeting many current regulations and keeping up with changes in standards actually detracts from the direct care and benefits we are able to provide for the children.

To require me to take 2 courses in psychology when I already had a minor in psychology from University of Virginia was ridiculous!

Parents often would prefer to send a child's lunch. To say a school may not "permit" parents to feed their preschoolers is insulting and patronizing.

- **The number of variances from licensing standards may also indicate that some standards may be inappropriate for some providers:**

  - **More than 540 requests for variances were made by centers between April 1986 and March 1989**

  - **Just six of the more than 100 standards accounted for 237 of the requested variances**

  - **Centers requested variances from one standard 81 times**

CONCLUSION

- **In designing improvements to the State's regulatory system, four principles could be used:**

  - Regulation should be broadly applied

  - Regulation should be uniform

  - Regulation should be dynamic and flexible

  - Regulation should be reasonable and enforceable

- **The current system does not adequately implement these principles**

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GOALS FOR REGULATION

- **The State currently has no defined goals for regulating child day care — thus, there is no basis for regulatory decisions**

- **The Commonwealth has historically assumed a regulatory role in order to protect the public interest**

- **Executive Order Number Five (1986) states:**

  The State government has an affirmative and inescapable duty to enforce regulations that protect the public safety and welfare...

  The regulations [should be] necessary to protect the public health, safety, and welfare...

- **Because children are vulnerable, they need regulatory protection when not in the care of their parents or guardians**

- **In addition to the protection of children in day care, other goals also must be considered when determining who should be regulated as child day care in Virginia:**

  - to regulate in an equitable, appropriate manner

  - to limit the intrusion into private enterprise and private citizen's lives and thus preserve parental choice and the availability of day care

  - to limit the burden placed on private businesses and citizens by ensuring that regulation is reasonable and enforceable

Need for State Regulation

- **The need for regulation of child day care has been documented by the Department of Social Services, parents, and providers:**

  According to DSS, a provider evaded licensure by moving from location to location. To avoid detection, the 20 to 30 children in her care were kept inside, behind closed doors and shaded windows. The provider only employed non-English-speaking persons as assistants.

  One assistant was implicated in an infant crib death because she did not know how to summon a rescue squad.

  During an investigation of this provider, 19 children were found to be in care of two teenage assistants. Nine infants, crowded together in cribs on one side of a room, were being watched by a 15-year old boy. Despite the apparently dangerous nature of the care, at least one parent was quoted in the news as believing that the care was "fine and cheap."

  * * *

  A 16-month old child sustained a broken arm and two broken bones in her leg while in the care of an unregulated family day care provider in 1987. According to the provider, the child was injured when she rolled off the couch, bumped into the coffee table, and landed on the carpeted floor. However, doctors informed the parents that the injuries sustained could not have resulted from the simple fall the caregiver described.

  The local department of social services and the police conducted separate investigations. Even though the police agreed with the doctors, they did not charge the provider because criminal wrongdoing could not be proven. Local social services found the provider guilty of child abuse and entered her name on the registry of known abusers. However, lack of State regulatory controls over this provider enabled her to continue caring for other children.

Need for State Regulation

- **State regulation provides the Commonwealth with the legal authority and resources beyond those of parents and providers to protect the children in day care**

- **While problems can occur in any type of care, there is little recourse for parents whose children are in unregulated care. When the provider is licensed, however, parents can rely on regulatory actions to address concerns. For example:**

  DSS denied a renewal license to a child care center due to health and safety concerns for the children in care. In its denial letter, DSS described the center as having a hole in the bathroom ceiling, roaches, broken bookcases, and uncapped electrical outlets. In addition, the letter contended that exposed electrical wiring was not fixed until the fire marshal gave the center 24 hours to correct the problem.

  During 11 monitoring visits to the center, licensing specialists found numerous violations of supervisory and safety standards; many were repeat violations. For example, licensing specialists found only two staff to supervise 53 napping children during a visit. Neither staff were within sight and sound of most children. Specialists visited the center two days later to determine compliance. However, they again found only two staff — both of whom were in the office, leaving the children unsupervised.

  Specialists documented numerous safety problems during their visits. For example, 20 children were crowded into one small room. Hazardous fluids were within children's reach. Bathrooms did not have soap for handwashing. Because toys were not available for active play, children played with paper shopping bags. Center staff did not have the required criminal records checks and references on file.

Need for State Regulation

- **A majority of parents and providers surveyed by JLARC and VCU support State regulation of day care:**

  - **76 percent of parents**
  - **80 percent of child care centers**
  - **72 percent of religiously-sponsored centers**
  - **72 percent of other children's programs**
  - **61 percent of regulated family day care providers**
  - **60 percent of unregulated family day care providers**

CRITERIA FOR DEFINING CHILD DAY CARE

- **There is currently no one accepted definition of child day care that can be used by the State**

Custodial Nature of Care

- **The primary component of child day care is its custodial nature. Custodial care refers to the basic aspects of child day care that relate to the protection of children from physical and mental harm**

- **Many child day care arrangements also include educational or recreational components**

- **However, not all services that are custodial, such as foster care, can be defined as child day care**

Other Definitional Criteria of Child Day Care

- **Other characteristics that help to define child day care include:**

  - **the caregiver is not the parent or guardian**

  - **the care is provided on a part-day basis and is supplemental to care provided by the parent or guardian**

  - **a contractual relationship exists between the provider and parent or guardian**

  - **the provider is expected to be responsible for the children's whereabouts and well-being while in care**

  - **the care is available on an ongoing or regular basis**

Child Care Services and Programs That Clearly Are Not Day Care

Service or Program	Custodial Care		Does Not Meet One or More Definitional Characteristics
	No	Yes	
Medical Care	✓		
Sunday School	✓		
Academic Classes	✓		
Extracurricular School Activities	✓		
Sports Leagues	✓		
Special Clubs	✓		
Supervised Instruction	✓		
Adoptive Placement		✓	✓
Correctional Learning Centers		✓	✓
Psychiatric Hospitals		✓	✓
Boarding Schools		✓	✓
Foster Care		✓	✓
Church Nurseries		✓	✓
Babysitter		✓	✓

Source: JLARC staff analysis.

Evaluation Criteria for Assessing Who Provides Child Day Care

Provider or Program	Definitional Characteristics					Current Regulatory Treatment	
	Caregiver not Parent or Guardian	Care Provided on Part-Day Basis	Contractual Relationship Exists	Provider Responsible for Whereabouts of Children	Care Available on Ongoing or Regular Basis	Recognized as Child Day Care in Other States	Recognized as Child Day Care in Virginia
— Child Care Centers	●	●	●	●	●	✓	✓
Proprietary	●	●	●	●	●	✓	✓
Non-Profit	●	●	●	●	●	✓	✓
Employer-Sponsored	●	●	●	●	●	✓	✓
Government-Sponsored	●	●	●	●	●	✓	
Hospital-Sponsored, Public	●	●	●	●	●	✓	✓
Hospital-Sponsored, Employees Only	●	●	●	●	●	✓	
Religiously-Sponsored	●	●	●	●	●	✓	✓
Extended Day, Licensed	●	●	●	●	●	✓	✓
"Mothers' Morning or Day Out"	●	●	●	●	○	✓	✓
— Family Day Care Homes	●	●	●	●	●	✓	✓
Six or more unrelated children	●	●	●	●	●	✓	✓
Five or fewer unrelated children	●	●	●	●	●	✓	
— In-Home Care*	●	●	●	●	●		
— Other Children's Programs	●	●	●	●	●	✓	
Nursery School	●	●	●	●	●	✓	
Extended Day, Public School	●	●	●	●	●	✓	
Parks and Recreation Department (Selected programs)	●	●	●	●	○	✓	
Boys Club (Selected programs)	●	●	●	△	○	✓	
Girls Club (Selected programs)	●	●	●	●	○	✓	
Summer Day Camp	●	●	●	●	△	✓	

* Data were not collected for these providers; instead, information from placement agencies and job descriptions were used in assessment.

● indicates majority of providers or programs responding to JLARC surveys meet characteristic.

○ indicates majority of providers or programs responding to JLARC surveys appear to meet characteristic, but could be excluded depending on the threshold adopted.

Some Programs Need Case-by-Case Assessment

- **A number of child care programs will have to be assessed on a case-by-case basis: recreation and parks programs, Boys Clubs and Girls Clubs, and summer day camps**

- **Examples of programs visited by JLARC staff that could be defined as child day care:**

  A recreation and parks program operated throughout the school year three afternoons each week. The program encouraged participation in a number of activities including arts, games, and recreation. There was also space for students to use to complete their homework. The department had a written agreement with the parents of the children participating. Children were not allowed to leave the program premises without first obtaining staff permission.

  * * *

  One Girls Club after-school program provided transportation from several area schools to the club each afternoon. The program operated from 3:00 p.m. to 5:30 p.m. every weekday. The club extended its hours when school let out early and on holidays, so that it was open from noon until 5:30 p.m. or all day. The girls paid program service fees of $2 or $3 each week. In addition, the club had a written agreement with the parents of the children in care and the girls could generally not leave the facility without staff permission unless their parents authorized them to do so.

Balancing the Goal of Protection With Other Concerns

- **The goal of protecting children in some cases may need to be balanced with concerns about intrusion into family or other private agreements**

- **Three child day care situations that should not be regulated by the State for these reasons:**

  - care provided by relatives in family day care homes
  - in-home care
  - cooperative care arrangements

- **Parents must take the responsibility for evaluating these providers of care**

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OPTIONAL FORMS OF REGULATION

- **Although licensing provides the highest level of protection for children, it may not always be a viable alternative for regulation for all types of child day care**

- **Because of limits on resources and concerns about the availability of care, other less restrictive regulatory forms may be practical alternatives to licensing for certain types of providers**

- **Five regulatory forms or options, all of which protect children in care to some degree, could be used to regulate child day care in Virginia:**

  - licensure
  - registration
  - certification
  - credentialing
  - accreditation

- **Regulatory forms may focus on the physical setting where care is provided, the individual providing care, the program, or any combination of these three**

- **Because regulatory forms which focus on all three areas typically provide more protection and greater flexibility than those that do not, the focus of the regulatory form is an important criterion in assessing its appropriateness**

- **The components or requirements typically included within a regulatory form also determine its effectiveness as a means of protecting children in care**

Comparison of Regulatory Forms

	Goal	Regulatory Focus			Principles Met		
Form	Protects Children	Facility	Individual	Program	Flexibility	Uniform Application	Reasonable and Enforceable Implementation
Licensure	✓	✓	✓	✓	✓	✓	✓
Registration	✓	✓	✓	✓	✓	✓	✓
Accreditation	✓			✓			
Certification	✓	✓	✓			✓	✓
Credentialing	✓		✓				

Source: JLARC staff analysis.

Components of Preferred Regulatory Forms

Comparison of Licensure and Registration Requirements

Requirement	Licensure	Registration
Must have permission to operate prior to providing care	✓	✓
Must be inspected prior to providing care	✓	
State authorities have right to intervene and monitor	✓	✓
Must meet regulatory standards for:		
• staff qualifications	✓	
• criminal records check	✓	✓
• health and safety requirements	✓	✓
• program requirements	✓	

Source: JLARC staff analysis.

- **If use of licensure as a regulatory form for child day care in Virginia is continued, the manner in which it is currently implemented may require changes to ensure that it is reasonable and enforceable**

- **If registration is used as a regulatory form in Virginia it should include several protective measures such as biographical information about the provider, information about the number of children in care, a criminal records check, and a self-administered safety and health evaluation checklist**

DISTINGUISHING CHILD DAY CARE PROVIDERS FOR REGULATORY PURPOSES

- **Child day care is provided in a variety of physical settings, which range from a family's home where a few children are cared for to a large, complex building specifically designed for providing day care to a large number of children**

- **The facility design and the number of children in care can be used to distinguish between providers and have been used to regulate them differently**

Distinctions Between Child Care Centers and Family Day Care Homes

- **Child care centers can be easily distinguished from family day care homes, because all non-residential care is considered center care**

  - **The Uniform Statewide Building Code (USBC) requires that all child care centers meet the building and fire safety requirements of an institutional or educational building**

  - **Family day care homes fall into the residential building code category because they are the providers' private homes**

- **A threshold for the number of children in care must be established when day care is provided in a residential facility**

- **Generally, family day care homes that care for ten or more children (other than the provider's children) are defined and regulated as child care centers**

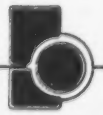
- **This regulatory treatment presents two problems:**

  - **The provider's children are not considered in determining when a home should be licensed as a child care center**

  - **The current threshold of ten children in care is not consistent with health regulations that day care providers must meet or with the threshold established by many other states**

- **Raising the maximum number of children allowed in care in a family day care home from ten to 13 for it to be defined and regulated as a child care center would promote:**

  - **consistency in regulations**
  - **flexibility, generally allowing children related to the provider to be considered in the total number of children in care**



Distinctions Among Family Day Care Homes

- **Family day care homes caring for a large number of children should be distinguished from those caring for a small number of children both for definitional and regulatory purposes**

- **A threshold of five children in care seems to be the point at which these homes are differentiated:**

  - **According to State fire and building officials, there are additional health and fire concerns in family day care homes in which six or more children are being provided care**

  - **Homes caring for six or more children are also seen as different from smaller homes by at least 34 states**

- **Although Virginia does not currently regulate family day care homes that care for five or fewer children, the Commonwealth has historically recognized these homes as child day care providers**

- **Thus, family day care homes could be classified in two categories:**

  - **Small day care homes -- those caring for five or fewer children**

  - **Group day care homes -- those caring for between six and 12 children (which includes those homes currently licensed as day care by the State)**

APPLICATION OF REGULATORY FORMS

- **Licensure and registration have been identified as the two most appropriate regulatory forms for child day care providers in Virginia**

- **Licensure should be the preferred form of regulation for child day care because it affords children the greatest protection**

- **However, in order for the State to provide for realistic and enforceable regulation of the child day care industry, it must make certain tradeoffs:**

  - cost of regulation
  - impact on availability and affordability

- **Licensure and registration have been assessed to determine which form may be most appropriately applied to each type of provider to be regulated**

Use of Licensure

- **Licensure typically has more stringent requirements than registration, thereby ensuring a greater level of protection**

- **Licensure is appropriate when larger groups of children are in care — it would be appropriately applied to child care centers and to group day care homes**

<u>Advantages to Licensing Child Care Centers</u>

- **Does not increase cost of care**

- **Ensures annual monitoring and inspections of staff, facility, and program**

- **Ensures continuous protection**

- **Can be used for special programs while not reducing protection**

Revisions to Licensing Standards May Be Needed

- **Although the current form of regulation of child care centers is appropriate, some revisions to licensing standards may be necessary given the concerns raised by regulatory staff and providers:**

  - **The standards for licensure of child care centers should focus on the health, safety, and well-being of the children in care**

  - **Special population child care centers such as occasional care programs and before- and after-school programs may require a separate or special set of standards**

- **Additional safety measures should also be taken: an annual fire inspection should be mandated for all child care centers, given that some local fire marshals only inspect centers when a complaint is received**

Advantages to Licensing Group Day Care Homes

- **Does not increase cost of care**
- **Ensures annual monitoring of providers, homes, and programs**
- **Ensures that certain requirements are being met such as for equipment and training**
- **Is not burdensome to providers**
- **Group day care homes have large enough numbers of children in care to make registration unsuitable**
- **Without licensure, group day care homes would not be inspected by any State agency on an annual basis**

Revisions to Standards May Be Needed

- **Concerns about standards for group day care homes also need to be addressed:**
  - **Current licensing standards for family day care homes have not been revised for several years**
  - **Standards should provide adequate protection for children while meeting the requirements of Executive Order Number Five**

Use of Registration

- **In comparison to licensure, registration is less restrictive**
- **Registration does not create an excessive burden on parents and providers or excessive costs for the State**
- **The estimated number of small day care providers, the informal nature of these homes, and the limited number of children in care in these homes all make registration a more appropriate form of regulation than licensure**

Advantages to Registering Small Day Care Homes

- **Offers protection to children in care at least cost and burden**
- **Opens training opportunities to providers**
- **Informs parents and providers of components of quality care**
- **Gives State a means to identify providers**
- **Gives State regulatory authority to intervene when children are at risk**
- **Eliminates need for USDA approval of providers**
- **Eliminates need for local approval for public funds**
- **Establishes consistent regulation of all small day care home providers**
- **Eliminates duplicative and inequitable regulation**

Disadvantages

- **Less protection is provided by the regulatory authority for the children in care in terms of the number of inspections and the comprehensiveness of the standards**
- **Perception of an expansion of government regulation**

IMPACT OF PROPOSED CHANGES TO THE REGULATORY SYSTEM

- The proposed changes to the regulatory framework for child day care can provide a greater level of protection for all of the children in care and equalize the impact on providers
- The changes also recognize certain limitations on the ability or appropriateness of the State to regulate all forms of care
- Implementation of all the changes to the regulatory system proposed in this report would cost the State an estimated $6.9 million annually, or about $155 per regulated provider
- Additional funding of more than $900,000 would be required for first-year, start-up costs
- The current regulatory system for child day care costs the State $1,815,431, or about $1,412 per State-licensed or certified provider

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INITIATIVES TO PROMOTE AVAILABILITY OF CARE

- As noted previously, 40 percent of parents using day care reported having availability problems in looking for child care

- 11 percent of the families not using day care reported having a member of the household who was unable to work because of problems arranging child care; about half of these families noted that care was not available

- Estimates indicate that a family member in approximately 44,000 Virginia households may be unable to work because of problems related to obtaining child care

- Initiatives examined to address availability problems include:

  - allowing public schools to offer day care programs
  - helping parents locate day care
  - providing incentives to providers who offer day care

Allowing Schools to Provide Before- and After-School Care

- **Allowing schools to provide before- and after-school care was widely supported — by 82 percent of parents, 67 percent of consumer associations, and 61 percent of provider associations**

- **13 of 15 states surveyed by JLARC staff allow schools to provide this care**

- **In Virginia, schools are not allowed to sponsor before- and after-school care unless specific authority has been granted by the General Assembly; 14 school boards currently have authority to sponsor such care**

- **All school boards may authorize school buildings to be used for purposes other than educational classes; several localities have permitted other entities to operate child day care on school property before and after school**

<u>Advantages to School-Based Care</u>

- **School buildings are under-utilized and available**
- **School buildings are designed for school-age children**
- **Children do not have to be transported to the facility**

Helping Parents Locate Day Care

- Parents may not know where to look to identify child day care providers
- While there are a number of alternatives — regional offices of DSS, USDA sponsor associations, local departments of social services, information and referral centers, or resource and referral programs — few parents may be aware of all of these alternatives
- A resource and referral program would be the most helpful because these programs:
  - match day care arrangements with specific family needs
  - recruit providers to offer needed care
  - provide services to providers
- Resource and referral programs do not operate statewide in Virginia
- Ten resource and referral programs currently operate in Virginia — four in Northern Virginia
- A number of previous studies have recommended increasing resource and referral services

Providing Incentives to Offer Day Care

- **The most important action the State can take as an incentive for providing child day care is to make the regulatory system equitable and fair**
- **Other provider needs were also identified**

Operating Problems Noted by Providers (Not Related to State Regulation)

Problem	Child Care Centers (N=226)	Children's Programs (N=331)	Regulated Family Day Homes (N=310)
Attracting and Retaining Qualified Staff	45%	26%	—*
Obtaining Liability Insurance	14%	9%	21%
Meeting Local Zoning Requirements	8%	3%	1%
Meeting Other Local Ordinances	3%	1%	1%
Obtaining Technical Assistance	1%	1%	1%

* Data were not collected from this group of providers.

Source: JLARC staff surveys of providers.

Attracting and Retaining Staff

- **The State has already taken steps that should indirectly help the child day care industry attract and retain qualified staff**

- **The Joint Subcommittee Studying Early Childhood and Day Care Programs has been looking at ways to address this issue:**

  - **creation of the Virginia Council on Child Day Care and Early Childhood Programs to coordinate high quality day care and early childhood education programs**

  - **request of the Virginia Community College System (VCCS) and four-year institutions of higher education to develop a plan for the education and training of day care personnel**

  - **establishment of a day of recognition for early childhood and day care providers and professionals**

- **Additional direct and indirect incentives for child day care providers will be examined by the Joint Subcommittee prior to the 1990 session**

Monitoring Liability Insurance for Day Care Providers

- **Problems related to obtaining liability insurance for day care operations have received considerable attention from the State Corporation Commission (SCC) in recent years**
- **A 1989 SCC report noted that 20 percent of child care centers had experienced cancellation or non-renewal of their liability insurance in the last three years; 31 percent also had difficulty in obtaining insurance**
- **Only 57 percent of licensed family day care home providers reported having liability insurance, with about half of these providers reporting difficulty obtaining this insurance**
- **Given the potential for serious injury to children in care, liability insurance is needed and must be affordable**

Promoting Employer-Supported Care

- **Employees' child day care needs can be supported through a variety of benefits including:**

  - **flexible work hours**
  - **employee benefits including family sick leave, maternal and paternal leave**
  - **information and referral services regarding child care**
  - **contracting for day care spaces in centers and homes**
  - **on-site or near-site child care centers**

- **Nationwide only 3,500 of the more than 6 million employers currently provide some family or child day care benefits**

- **Estimates of the number of on-site centers currently operating nationwide range from 700 to 900**

- **In 1988, the Governor's Corporate Advisory Commission on Employers' Initiatives for Child Day Care recommended:**

  - **matching grants for innovative new programs**
  - **loan guarantees for small businesses that want to open child care centers**
  - **sales and use tax exemptions for child care centers that satisfy national standards for high quality programs**
  - **financial support for better training and wages for day care providers**
  - **tax credits for the initial costs involved in establishing on-site day care centers**

INITIATIVES TO PROMOTE AFFORDABILITY OF CARE

- **35 percent of parents using day care reported the cost of care to be a problem**
- **In families with incomes of less than $35,000 per year, the percentage reporting problems was 48 percent**
- **Broad support was shown for the State helping to pay for day care — by 83 percent of parents, 83 percent of consumer associations, and 49 percent of provider associations**
- **83 percent of parents also supported the State increasing the tax deduction for child care expenses**
- **All 15 states surveyed by JLARC staff offered subsidies for low-income families — five of these states had a tax deduction or credit**

Indirect Assistance through State Income Tax Credits

- Currently, the State provides for a dependent care tax deduction, which allows parents to deduct some of their day care expenses
- This deduction is more beneficial for higher-income taxpayers
- Since the majority of the federal tax credit benefits middle- and higher-income families, the State may wish to target assistance to lower-income families
- A tax credit would be more beneficial for low-income families since it directly reduces the amount of tax owed — the credit could be designed to primarily benefit lower-income families

INITIATIVES TO PROMOTE QUALITY OF CARE

- **Provider training can improve the quality of child day care by helping ensure the safety of children in care**
- **Training opportunities, especially for currently unregulated family day care providers, could be greatly expanded**
- **The quality of care can also be enhanced when parents understand how to monitor and evaluate their children's care; however, Virginia currently does little to educate parents about their role in monitoring day care**

Training Child Care Providers

- **The State's current training efforts for child day care workers in the field are primarily directed at workers in State-licensed child care centers**
- **Three State agencies offer providers on-going training in addition to educational opportunities offered through VCCS and State colleges and universities**
- **Training workshops and materials developed by DSS are limited to State-regulated providers**
- **Surveyed providers were interested in receiving additional training, particularly on:**

  - first aid and CPR
  - developmental curricula

- **Eighty-one percent of licensing specialists and all of the licensing administrators reported that the State should increase training opportunities for day care providers**

Providing Information about Choosing Quality Day Care

- **Parents can serve as informal regulators of child care, ensuring quality by discussing with providers their concerns about undesirable practices and by reporting problems**

- **There are few parent education efforts underway in Virginia and the majority of these are focused on improving parenting skills, not on helping parents choose quality day care or informing them about day care regulation**

- **Broad support was shown for providing parents with information about choosing quality day care:**

  - **93 percent of parents**
  - **50 percent of consumer associations**
  - **65 percent of provider associations**
  - **81 percent of licensing specialists**
  - **100 percent of licensing administrators**

- **Eight of the 15 states surveyed by JLARC staff have parent education programs**

REGULATION AND PROVISION OF CHILD DAY CARE IN VIRGINIA

- ☐ INTRODUCTION
- ☐ CHILD CARE IN VIRGINIA
- ☐ REGULATION OF CHILD DAY CARE IN VIRGINIA
- ☐ REDEFINING THE STATE'S REGULATORY ROLE
- ☐ RECONSIDERING THE REGULATORY SYSTEM
- ☐ STATE INITIATIVES TO PROMOTE CHILD DAY CARE IN VIRGINIA
- ☑ RECOMMENDATIONS
  - Recommendations for a Comprehensive Regulatory Proposal
  - Other Recommendations

RECOMMENDATIONS FOR A COMPREHENSIVE REGULATORY PROPOSAL

The Secretary of Health and Human Resources should prepare a comprehensive proposal for improvements to the State's regulatory system for child day care and should submit it to the Joint Subcommittee Studying Early Childhood and Day Care Programs. The proposal should ensure that the regulatory system provides an adequate level of protection for children in care, is fair and equitable to providers, is based on standards which are reasonable and enforceable, and can be adapted to changes in the child day care industry. The proposal should:

- **Include a definition of child day care. Child day care services should be defined as any care of one or more children which meets the following criteria: care is provided by one or more individuals who are not the parents or guardians of all children in care; care is provided on a part-day basis; there is a contractual agreement with the parents of the children in care; the provider is expected to be responsible for the whereabouts and well-being of the children while in his or her care; and care is available on an ongoing, regular basis.**

- **The definition should exclude services such as medical care, academic classes at public and private schools which provide State-mandated education, supervised training or instruction, and extracurricular activities which are not custodial in nature from consideration as child day care. In addition, Sunday school, religious study classes, and care provided in church nurseries so that parents may attend religious services should be excluded.**

- **Consider the appropriateness of deleting the current exceptions to the definition of a family day care home.**

- **Consider the appropriateness of deleting the current exception for nursery schools from the definition of a child care center.**

- **Consider the appropriateness of current exceptions and exemptions. To ensure adequate State protection of children in day care and to equalize the impact of regulation on all types of care, as expressed in HJR 116 and SJR 41, the proposal should consider: (a) deleting the exception related to hospital sponsorship from the definition of child care center; (b) requiring that day care programs and services operated by State and local governments be regulated; and (c) discontinuing the exemption for religiously-sponsored child care centers.**

  If the option for exemption for religiously-sponsored child care centers is continued, the proposal should, as a minimum: (i) authorize DSS to conduct on-site inspections at the time of initial application and annually thereafter, and (ii) include criminal records checks of staff.

  If exclusions to licensure as a child care center are continued, the proposal should consider granting the Commissioner of DSS the authority to investigate all complaints at excepted or exempted child care centers. In addition, the proposal should consider granting the Commissioner of DSS the authority to seek injunctive action in instances in which children are found to be at risk.

- **Consider the appropriateness of requiring that all programs and individuals providing child day care be regulated. However, consideration should be given to an exception for three types of care: family day care provided to relatives only, in-home care, and cooperative arrangements.**

- **Consider including additional felonies and other serious crimes in the criminal records check that is performed using the Central Criminal Records Exchange.**

- **Consider defining a child care center as any program of any capacity that provides child day care within a non-residential building, and any program with a capacity of 13 or more that provides care in a residential building.**

- **Consider defining a group day care home as a residential building used to provide child day care to no less than six but no more than 12 children (including those related to the provider).**

- **Consider defining a small day care home as a residential building used to provide child day care to five or fewer children (including those related to the provider).**

- **Consider continued licensure of all child care centers by the Commissioner of Social Services.**

- **Consider directing the Child Day-Care Council to review and amend as necessary the child care center licensing standards. The council should ensure that standards address the health, safety, and well-being of children in care, and intrude to the least possible extent into legitimate activities of private businesses and citizens.**

- **Consider requirements for annual fire safety inspections of child care centers and the posting of occupancy loads in each room within centers.**

- **Consider directing the Child Day-Care Council to promulgate separate child care center licensing standards for programs that serve special populations such as mothers' morning out, school-age children, or children in occasional care.**

- **Consider lengthening the licensing period for child care centers to two years. In addition, the proposal should consider requirements that all complaints against child day care facilities be investigated.**

- **Consider requiring that all group day care homes be licensed by the Commissioner of Social Services. Licensure should also be available on a voluntary basis to in-home providers and relatives providing care in a group day care home setting who wish to receive public funds.**

- **Consider directing the State Board of Social Services to review and amend as necessary the family day care home licensing standards. The Board should ensure that standards address the health, safety, and well-being of children in care, and intrude to the least possible extent into legitimate activities of**

- **Consider lengthening the licensing period for group day care homes to two years. In addition, the proposal should consider requirements that all complaints against licensed group day care homes be investigated.**

- **Consider the options described in this report for regulating small day care homes. If the primary goal of protecting children in child day care is accepted, then some form of mandatory registration would seem appropriate. A mandatory registration system, if adopted, should be made by written application and should include a criminal records check and a self-administered safety and health evaluation checklist. Registration should also be available on a voluntary basis to in-home providers and relatives providing care in a small day care home setting who wish to receive public funds.**

- **Consider establishing a registration period for small day care homes of two years if this regulatory form is adopted. In addition, the proposal should consider requirements that all complaints against registered small day care homes be investigated. Also, as a part of the proposal, DSS should determine what percentage of homes it can effectively monitor each year. Amendments to the *Code of Virginia* which define enforcement responsibilities and any fees associated with registration should be recommended also.**

- **Consider continued licensure of family day care systems by the Commissioner of Social Services. In addition, the State Board of Social Services should consider revising the minimum standards for licensed family day care systems, making them consistent with those promulgated for licensure of group day care homes and the selected form of registration for small day care homes.**

OTHER RECOMMENDATIONS

The General Assembly may wish to grant all school boards permission to sponsor day care programs that operate outside of school hours. If qualified providers are available, school boards should contract with entities licensed as day care providers and comply with Virginia Public Procurement Act provisions in seeking contracts for the care.

The General Assembly may wish to add resource and referral programs to the core services of the four information and referral centers currently without this service. The Department of Social Services should determine the level of State funding required to add these services and recommend any required funding to the General Assembly.

The State Corporation Commission should continue to monitor the availability of liability insurance for child care centers and family day care homes. The Department of Social Services should have information available for day care centers and providers on how to obtain liability insurance coverage and the names of insurance companies that are willing to write new policies.

The Department of Social Services should provide registered small day care home providers with voluntary training opportunities through newsletters, media resource center catalogs, and invitations to workshops and classes. The department should develop a voluntary training credential for registered small day care home providers and licensed group day care home providers.

The Department of Social Services should develop a pamphlet for parents about the regulation of child day care. The pamphlet should include telephone numbers for parents to call with complaints about regulated care. This pamphlet should be distributed to parents through a variety of locations such as obstetrician and pediatrician offices, elementary schools, maternity wards, and local health departments.

The resource and referral components of the information and referral system should be used to promote parent education on choosing quality day care.